

RULE NO.: R161-13.07

NOTICE OF PROPOSED RULE

POSTING DATE: January 3, 2013

The Director of the Planning and Development Review Department proposes to adopt the following rule after February 4, 2013.

Comments on the proposed rule are requested from the public. Comments should be submitted to Sylvia Arzola, 505 Barton Springs Road, 5th Floor; 512-974-6448. To be considered, comments must be submitted before February 4, 2013, the 32nd day after the date this notice is posted. A summary of the written comments received will be included in the notice of rule adoption that must be posted for the rule to become effective.

An affordability impact statement regarding the proposed rule has been obtained and is available for inspection or copying at the address noted in the preceding paragraph.

EFFECTIVE DATE OF PROPOSED RULE

A rule proposed in this notice may not become effective before the effective date established by a separate notice of rule adoption. A notice of rule adoption may not be posted before February 4, 2013 (the 32nd day after the date of this notice) or not after April 3, 2013 (the 90th day after the date of this notice).

If a proposed rule is not adopted on or before April 3, 2013, it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule.

TEXT OF PROPOSED RULE

R161-13.07: New addition to the Building Criteria Manual. Section 13 and Section 13.1.3 are added to read as follows:

SECTION 13—SHORT TERM RENTAL USES

13.1.1 Purpose

To establish guidelines and procedures, as needed, to implement the requirements for short-term rental uses established by Ordinance No. 20120802-122, codified in Subpart C (*Requirements for Short-Term Rental Uses*) of City Code Chapter 25-2, Subchapter C, Article 4, Division 1 (*Residential Uses*).

13.1.2 Type 2 Short-Term Rental Uses

- (A) City Code Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*) limits a Type 2 Short-Term Rental use to structures that are not owner occupied and not associated with an owner-occupied residential unit.
- (B) Except as provided in Subsection (C), a residential unit is presumed to be non-owner occupied if there is no homestead exemption claimed for any residential unit located on the property at the time a license or license renewal application for a Short-Term Rental use is submitted or at any time a license is in effect.
- (C) A residential unit will be presumed to be owner-occupied, and not eligible to operate as a Type 2 Short-Term Rental use, if the residential unit is:
 - (1) subject to a homestead exemption or located on the same property as a unit subject to a homestead exemption; or
 - (2) determined by the responsible director to be primarily owner-occupied for a period of at least 183 days a year, based on utility account information or other credible evidence of owner occupancy.

SECTION 13-1.3 – SHORT TERM RENTAL INSPECTIONS

13.1.3 Short-Term Rental Inspections

- (A) In order to meet the requirements of Subsection (C) of City Code Section 25-2-790 (License Requirements), a structure must have:
 - (1) A valid certificate of occupancy or compliance; or
 - (2) Been determined by the building official not to pose a hazard to life, health, or public safety, based on a minimum life-safety inspection.
- (B) An inspection under City Code Subsection 25-2-790(C) shall be conducted according to the form attached as Exhibit A.
- (C) The building official or his delegate may accept a third-party inspection as the basis for his determination under City Code Subsection 25-2-790(C).
- (D) A third-party inspection shall be conducted by one of the following:
 - (1) A Professional Inspector certified by the Texas Real Estate Commission;
 - (2) A Residential Combination Inspector certified by the International Code Council; or
 - (3) An inspector possessing equivalent certification as determined by the building official or his delegate
- (E) The building official may delegate his authority under City Code Subsection 25-2-790(C) to the director of the Department of Code Compliance.

BRIEF EXPLANATION OF PROPOSED RULE

Rule R161-13.07: The proposed rule adds new sections to the Building Criteria Manual to adopt new policies relating to short-term rentals and inspection requirements for short-term rentals.

A copy of the complete text of the proposed rule is available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page:

Planning and Development Review Department located at 505 Barton Springs Road, 5th Floor; and

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas.

AUTHORITY FOR ADOPTION OF PROPOSED RULE

The authority and procedure for adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is provided in Chapter 1-2 of the City Code. The authority to regulate short-term rental requirements is established in Chapter 25-2 (Zoning) and 25-12 (Technical Codes) of the City Code.

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Proposed Rule 161-13.07 the City Attorney certifies the City Attorney has reviewed the rule and finds that adoption of the rule is a valid exercise of the director's administrative authority.

REVIEW AND APPROVED

Greg Guernsey, Director
Planning and Development Review Department

Date: _____

Karen M. Kennard
City Attorney

Date: _____

.